

REMARKS

Claims 81, 88, 89, 92, 99, 100, 111-118 have been amended. Claims 101, 102, 104, 106, 107, and 109 have been canceled and the rejections against these claims are therefore moot. New claims 119-122 have been added. Claims 81-100 and 111-122 are pending in the present application.

Essential subject matter pertaining to wet wipes in U.S. Patent Appl. No. 09/564,531 was incorporated by reference into the original specification at page 2, line 9 (and later amended on 2/04/04). MPEP 608.01(p) and 2163.07(b). Accordingly, portions of disclosure from U.S. Patent Appl. No. 09/564,531 were added to the instant specification according to the "Amendments to the Specification" section at pp. 2-5 above. Support for the claim amendments can at least be found in U.S. Patent Appl. No. 09/564,531 at p. 5, lines 15-29; p. 7, lines 7-13; p. 16, line 26 to p. 18, line 2; p. 41, lines 15-30; and p. 110, line 25 to p. 111, line 14.

Applicants submit that the amendatory material consists of the same material incorporated by reference in U.S. Patent Appl. No. 09/564,531. See attached Declaration.

Rejections under 35 U.S.C. § 112

Claims 81-102, 104, 106, 107, 109, and 111-118 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

According to the Examiner, the original disclosure does not support the following claimed ranges of salt concentration:

- "more than 1 weight percent" (claims 81 and 92);
- "at least about 1.5 weight percent" (claims 101 and 106);
- "at least about 2 weight percent" (claims 102 and 107); and
- "at least about 4 weight percent" (claims 104 and 109)

Applicants' cancellation of claims 101, 102, 104, 106, 107, and 109 renders moot the rejection against these claims. However, the Examiner further rejected claims 111-118, but did not provide basis for applying the new matter rejection against these claims. As noted in Applicants' response, dated 3/31/05, support for the limitations recited in claims 111-118 could be found at least in Col. 24, lines 28-48 of U.S. Patent No. 6,444,214, which was incorporated by reference into the present specification by reference to U.S. Ser. No. 09/564,939 at page 2, lines 7-13 of the original application. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Rejections under 35 U.S.C. § 103

Taylor et al.

Claims 81-87, 101, 102, 104 and 111-114 were rejected under 35 U.S.C. § 103(a) as being unpatentable over applicants' acknowledged state of the art in view of Taylor et al. (U.S. Pat. No. 6,451,748). Applicants' cancellation of claims 101, 102, and 104 renders moot the rejection against these claims.

Taylor et al. discloses antibacterial solutions comprising from about 0.001% to about 10% by weight of an antimicrobial agent, including 2-hydroxydiphenyl compounds, such as triclosan, or related phenol derivatives in the form of an alkyl metal salt or ammonium salt (col. 8, line 52 - col. 9, line 16). Taylor's antibacterial solutions may further include from about 0.1% to about 40% by weight of a surfactant, including a C₈-C₁₉ fatty acid salt (col. 3, lines 53-58) and may include the use in a wet wipe of ammonium lauryl sulfate and sodium xylene sulfonate in a wet wipe (Example 17, cols. 40-41). Accordingly, Taylor's disclosure of salts for use in antibacterial solutions is limited to organic salts. The pending claims are limited to wet rolls comprising at least 1 weight percent of an inorganic salt. There is no suggestion in Taylor et al. that an inorganic salt can be used in the disclosed antibacterial solutions.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180

USPQ 580 (CCPA 1974). MPEP 2143.03. Since Taylor et al. does not disclose or suggest a wet roll comprising an inorganic salt, Taylor et al. does not constitute prior art against the presently claimed subject matter. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Taylor et al. in view of Nissing et al.

Claims 90-98 and 106, 107, 109, and 115-118 were rejected under 35 U.S.C. § 103(a) over selected portions of Applicants' specification in view of Taylor et al. as applied to claims 81-87 and 101-105 above, and further in view of Nissing et al. (U.S. Pat. No. 6,623,834). Applicants' cancellation of claims 106, 107, and 109 renders moot the rejection against these claims.

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). MPEP 2143.03. Since Taylor et al. does not disclose or suggest every limitation for the reasons set forth above, it necessarily follows that the combination of Taylor et al. and Nissing et al. cannot render obvious the presently claimed subject matter. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Double Patenting

Claims 10 of Hoo et al.

Claims 81-87, 101, 102, 104 and 11-114 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of Hoo et al. (U.S. Pat. No. 6,649,262).

The instant application is a divisional of U.S. Pat. Appl. No. 10/352,525, now U.S. Pat. No. 6,706,352, which is a divisional of U.S. Pat. Appl. No. 09/660,040, now U.S. Pat. No. 6,537,631.

At the time the invention of the instant application was made, the invention of the instant application, and the invention in U.S. Pat No. 6,649,262 commonly owned by Kimberly-Clark Worldwide, Inc. or subject to an obligation of assignment to Kimberly-Clark Worldwide, Inc. (See Reel/Frame No. 11784/0407 for '631 and '352 patents and Reel/Frame Nos. 12318/486, 12318/502, and 12749/27 for '262 patent).

Accordingly, this rejection is obviated by the filing of an appropriate terminal disclaimer. Pursuant to 37 CFR 1.130(b), a terminal disclaimer pursuant to 37 CFR 1.321(c) with respect to U.S. Pat. No. 6,649,262 is filed herewith along with an appropriate Power of Attorney. The filing of the terminal disclaimer is not intended as an acquiescence as to the obviousness of the present claims over claim 10 of Hoo et al. in view of Nissing et al.

Claim 10 of Hoo et al. ('262) in view of Nissing et al. ('834)

Claims 90-98, 107, 107, 109 and 115-118 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of Hoo et al. (U.S. Pat. No. 6,649,262) in view of Nissing et al. (U.S. Pat. No. 6,623,834).

This rejection is obviated by the filing of an appropriate terminal disclaimer. Pursuant to 37 CFR 1.130(b), a terminal disclaimer pursuant to 37 CFR 1.321(c) with respect to U.S. Pat. No. 6,649,262 is filed herewith. The filing of the terminal disclaimer is not intended as an acquiescence as to the obviousness of the present claims over claim 10 of Hoo et al. in view of Nissing et al.

Claim 41 of copending Application No. 10/664,342

Claims 81-87, 101, 102, 104, and 111-114 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 41 of copending Application No. 10/644,342. Applicants assume this is a typographical error and that the Examiner meant to apply this rejection to Application No. 10/664,342.

Application No. 10/664,342 is a divisional of U.S. Pat. Appl. No. 09/900,516, now U.S. Pat. No. 6,649,262 (Hoo et al.) As described above, the instant application is a divisional of U.S. Pat. Appl. No. 10/352,525, now U.S. Pat. No. 6,706,352, which is a divisional of U.S. Pat. Appl. No. 09/660,040, now U.S. Pat. No. 6,537,631.

At the time the invention of the instant application was made, the invention of the instant application, and the invention in Application No. 10/664,342 were either owned by Kimberly-Clark Worldwide, Inc. or subject to an obligation of assignment to Kimberly-Clark Worldwide, Inc. (See Reel/Frame No. 11784/407 for '631 and '352 patents and Reel/Frame Nos. 12318/486, 12318/502, and 12749/27 for '262 patent).

Accordingly, the Examiner is reminded that if the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the Examiner is instructed to withdraw that rejection and permit the application to issue as a patent, thereby converting the "provisional" double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent. MPEP 804 (I)(B).

Claim 41 of copending Application No. 10/664,342 in view of Nissing et al. ('834)

Claims 81-87, 101, 102, 104, and 111-114 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 41 of copending Application No. 10/644,342 in view of (U.S. Pat. No. 6,623,834). Applicants assume this is a typographical error and that the Examiner meant to apply this rejection to Application No. 10/664,342.

As set forth regarding the provisional obviousness-type double patenting rejection over copending Application No. 10/644,342 above, at the time the invention of the instant application was made, the invention of the instant application, and the invention in Application No. 10/664,342 were either owned by Kimberly-Clark Worldwide, Inc. or subject to an obligation of assignment to Kimberly-Clark Worldwide, Inc. and that if the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the Examiner is instructed to withdraw that rejection and permit the application to issue as a patent, thereby converting the

Application No. 10/771,969
Amdt. dated August 3, 2005
Reply to Office action of May 20, 2005

"provisional" double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent. MPEP 804 (I)(B).

Conclusion

In conclusion, all of the grounds raised in the outstanding Office Action for rejecting the application are believed to be overcome or rendered moot based on the remarks above. Thus, it is respectfully submitted that all of the presently presented claims are in form for allowance, and such action is requested in due course. Should the Examiner feel a discussion would expedite the prosecution of this application, the Examiner is kindly invited to contact the undersigned.

Respectfully submitted,


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